

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THOMAS FERNANDEZ, and LORA SMITH,  
individually and on behalf of a class  
of all other persons similarly  
situation,

Plaintiffs,

v.

K-M INDUSTRIES HOLDING CO., Inc., et  
al.,

Defendants.

No. C 06-07339 CW

CASE MANAGEMENT  
SCHEDULING ORDER FOR  
REASSIGNED CIVIL  
CASE

This action having been reassigned to the undersigned judge,  
IT IS HEREBY ORDERED that the dates previously set by Judge  
Martin J. Jenkins remain in effect **except as follows:**

Deadline for hearing on motions for class certification and for summary judgment on statute of limitations	July 31, 2008, at 2:00 p.m.
Case Management Conference	January 8, 2009, at 2:00 p.m.
Deadline for hearing on dispositive motions	January 8, 2009, at 2:00 p.m.
Pretrial Conference	March 3, 2009, at 2:00 p.m.
Bench Trial (15 days)	March 16, 2009, at 8:30 a.m.

Counsel shall comply with the attached Order for Pretrial Preparation.

1 This case has been designated for the Court's Electronic Case  
2 Filing (ECF) Program. Pursuant to General Order 45, each attorney of  
3 record is obligated to become an ECF user and be assigned a user ID  
4 and password for access to the system. All documents required to be  
5 filed with the Clerk shall be filed electronically on the ECF website,  
6 except as provided otherwise in section VII of General Order 45 or  
7 authorized otherwise by the court.

8 IT IS SO ORDERED.

9  
10 Dated: 3/5/08



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CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE

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26 (Rev. 10/10/07)  
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NOTICE

**Case Management Conferences and Pretrial Conferences** are conducted on **Tuesdays** at 2:00 p.m. **Criminal Law and Motion** calendar is conducted on **Wednesdays** at 2:00 p.m. for defendants in custody and 2:30 p.m. for defendants not in custody. **Civil Law and Motion** calendar is conducted on **Thursdays** at 2:00 p.m. Order of call is determined by the Court. Counsel need not reserve a hearing date for civil motions; however, counsel are advised to check the legal newspapers or the Court's website at [www.cand.uscourts.gov](http://www.cand.uscourts.gov) for unavailable dates.

Motions for Summary Judgment: All issues shall be contained within one motion of 25 pages or less, made on 35 days notice. (See Civil L.R. 7-2). Separate statements of undisputed facts in support of or in opposition to motions for summary judgment will not be considered by the Court. (See Civil Local Rule 56-2(a)). The motion and opposition should include a statement of facts supported by citations to the declarations filed with respect to the motion. Evidentiary and procedural objections shall be contained within the motion, opposition or reply; separate motions to strike will not be considered by the Court. Any cross-motion shall be contained within the opposition to any motion for summary judgment, shall contain 25 pages or less, and shall be filed 21 days before the hearing. The reply to a motion may contain up to 15 pages, shall include the opposition to any cross-motion, and shall be filed 14 days before the hearing. (See Civil Local Rule 7-3). The Court may, *sua sponte* or pursuant to a motion under Civil L.R. 6-3, reschedule the hearing so as to give a moving party time to file a reply to any cross-motion.

All discovery motions are referred to a Magistrate Judge to be heard and considered at the convenience of his/her calendar. All such matters shall be noticed by the moving party for hearing on the assigned Magistrate Judge's regular law and motion calendar, or pursuant to that Judge's procedures.

Pursuant to General Order 45, § VI.G, "In all cases subject to ECF, in addition to filing papers electronically, the parties are required to lodge for chambers **no later than noon on the business day following the day that the papers are filed electronically**, one paper copy of each document that is filed electronically."

(rev. 10/10/07)

ORDER FOR PRETRIAL PREPARATION

PRETRIAL CONFERENCE

1. Not less than 30 days prior to the pretrial conference, counsel shall exchange (but not file or lodge) the papers described in Civil L.R. 16-10(b)(7),(8),(9), and (10), and their motions in limine.

2. At least 20 days before the final pretrial conference, lead counsel who will try the case shall meet and confer with respect to:

(a) Preparation and content of the joint pretrial conference statement;

(b) Resolution of any differences between the parties regarding the preparation and content of the joint pretrial conference statement and the preparation and exchange of pretrial materials to be served and lodged pursuant to this Order for Pretrial Preparation. To the extent such differences are not resolved, parties will present the issues in the pretrial conference statement so that the judge may rule on the matter during the pretrial conference; and

(c) Settlement of the action.

3. Not less than 10 days prior to the pretrial conference, counsel shall submit the following.

(a) Pretrial Conference Statement. The parties shall file a joint pretrial conference statement containing the following information:

(1) The Action.

(A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.

(B) Relief Prayed. A detailed statement of all the relief claimed, particularly itemizing all elements of damages claimed.

(2) The Factual Basis of the Action.

(A) Undisputed Facts. A plain and concise statement of all relevant facts not reasonably disputed.

(B) Disputed Factual Issues. A plain and concise statement of all disputed factual issues which remain to be

1 decided.

2 (C) Agreed Statement. A statement assessing whether all  
3 or part of the action may be presented upon an agreed statement  
of facts.

4 (D) Stipulations. A statement of stipulations requested  
5 or proposed for pretrial or trial purposes.

6 (3) Disputed Legal Issues. Without extended legal  
7 argument, a concise statement of each disputed point of law  
8 concerning liability or relief.

9 (4) Further Discovery or Motions. A statement of all  
10 remaining discovery or motions.

11 (5) Trial Alternatives and Options.

12 (A) Settlement Discussion. A statement summarizing the  
13 status of settlement negotiations and indicating whether further  
negotiations are likely to be productive.

14 (B) Consent to Trial Before a Magistrate Judge. A  
15 statement whether the parties consent to a court or jury trial  
before a magistrate judge, with appeal directly to the Ninth  
Circuit.

16 (C) Bifurcation, Separate Trial of Issues. A statement of  
17 whether bifurcation or a separate trial of specific issues is  
feasible and desired.

18 (6) Miscellaneous. Any other subjects relevant to the  
19 trial of the action, or material to its just, speedy and  
20 inexpensive determination.

21 (b) Exhibit List and Objections. The exhibit list shall  
22 list each proposed exhibit by its number (see Civil L.R. 30-2(b)),  
23 description, and sponsoring witness, followed by blanks to accommodate  
24 the date on which it is marked for identification and the date on  
25 which it is admitted into evidence. **No party shall be permitted to**  
26 **offer any exhibit in its case-in-chief that is not disclosed in its**  
27 **exhibit list without leave of the Court for good cause shown.** Parties  
28 shall also deliver a set of premarked exhibits to the Courtroom

1 Deputy. The exhibit markers shall each contain the name and number  
2 of the case, the number of the exhibit, and blanks to accommodate the  
3 date admitted and the Deputy Clerk's initials. (Appropriate sample  
4 forms are available on the Court's website at [www.cand.uscourts.gov](http://www.cand.uscourts.gov)).  
5 Any objections to exhibits which remain after the pretrial meeting  
6 shall be indicated in the pretrial statement.

7 (c) Witness List. In addition to the requirements of  
8 FR CivP 26(a)(3)(A), a brief statement describing the substance of the  
9 testimony to be given by each witness who may be called at trial. **No**  
10 **party shall be permitted to call any witness in its case-in-chief that**  
11 **is not disclosed in its pretrial statement without leave of Court for**  
12 **good cause shown.**

13 (d) Use of Discovery Responses. In addition to the  
14 requirements of FR CivP 26(a)(3)(B), a designation of any excerpts from  
15 interrogatory answers or from responses for admissions intended to be  
16 offered at trial. Counsel shall indicate any objections to use of  
17 these materials and that counsel have conferred respecting such  
18 objections.

19 (e) Trial briefs. Briefs on all significant disputed  
20 issues of law, including foreseeable procedural and evidentiary  
21 issues, which remain after the pretrial meeting.

22 (f) Motions in Limine. Any motions in limine that could  
23 not be settled at the pretrial meeting shall be filed with the  
24 pretrial statement. All motions in limine shall be contained within  
25 one document, limited to 25 pages pursuant to Civil L.R. 7-2(b), with  
26 each motion listed as a subheading. Opposition to the motions in  
27 limine shall be contained within one document, limited to 25 pages,  
28 with corresponding subheadings, and filed five (5) days thereafter.

1 (g) Joint Proposed Voir Dire. The attached voir dire  
2 questionnaire will be given to the venire members, and copies of the  
3 responses will be made available to counsel at the beginning of voir  
4 dire. Counsel may submit a set of additional requested voir dire, to  
5 be posed by the Court, to which they have agreed at the pretrial  
6 meeting. Any voir dire questions on which counsel cannot agree shall  
7 be submitted separately. Counsel may be allowed brief follow-up voir  
8 dire after the Court's questioning.

9 (h) Joint Proposed Jury Instructions. As applicable, jury  
10 instructions §1.1A, §1.1C, §1.2 through §1.17, §1.19, §2.1 through  
11 §2.13, §3.1 through §3.3 from the Manual of Model Civil Jury  
12 Instructions for the Ninth Circuit (2007 Edition) will be given absent  
13 objection. Counsel shall jointly submit one set of additional  
14 proposed jury instructions, to which they have agreed at the pretrial  
15 meeting. The instructions shall be ordered in a logical sequence,  
16 together with a table of contents. Any instruction on which counsel  
17 cannot agree shall be marked as "disputed," and shall be included  
18 within the jointly submitted instructions and accompanying table of  
19 contents, in the place where the party proposing the instruction  
20 believes it should be given. Argument and authority for and against  
21 each disputed instruction shall be included as part of the joint  
22 submission, on separate sheets directly following the disputed  
23 instruction. Whenever possible, counsel shall deliver to the  
24 Courtroom Deputy a copy of their joint proposed jury instructions on  
25 a computer disk in WordPerfect or ASCII format. The disk label should  
26 include the name of the parties, the case number and a description of  
27 the document.

28 (i) Proposed Verdict Forms, Joint or Separate.

1 (j) Proposed Findings of Fact and Conclusions of Law (Court  
2 Trial only). Whenever possible, counsel shall deliver to the  
3 Courtroom Deputy a copy of their proposed findings of fact and  
4 conclusions of law on a computer disk in WordPerfect or ASCII format.  
5 The disk label should include the name of the parties, the case number  
6 and a description of the document.

7 JURY SELECTION

8 The Jury Commissioner will summon 20 to 25 prospective jurors.  
9 The Courtroom Deputy will select their names at random and seat them  
10 in the courtroom in the order in which their names are called.

11 Voir dire will be asked of sufficient venire persons so that  
12 eight (or more for a lengthy trial) will remain after all peremptory  
13 challenges and an anticipated number of hardship dismissals and cause  
14 challenges have been made.

15 The Court will then take cause challenges, and discuss hardship  
16 claims from the individual jurors, outside the presence of the venire.  
17 The Court will inform the attorneys which hardship claims and cause  
18 challenges will be granted, but will not announce those dismissals  
19 until the process is completed. Each side may then list in writing  
20 up to three peremptory challenges. The attorneys will review each  
21 other's lists and then submit them to the Courtroom Deputy.

22 Then, from the list of jurors in numerical order, the Court will  
23 strike the persons with meritorious hardships, those excused for  
24 cause, and those challenged peremptorily, and call the first eight  
25 people in numerical sequence remaining. Those people will be the  
26 jury.

27 All jurors remaining at the close of the case will deliberate.  
28 There are no alternates.

1 SANCTIONS

2 Failure to comply with this Order is cause for sanctions under  
3 Federal Rule of Civil Procedure 16(f).

4 IT IS SO ORDERED.

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CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE

JUROR QUESTIONNAIRE

Please fill out this form as completely as possible and print clearly. Since we want to make copies for the attorneys and the Court, do not write on the back of any page. If you need more room, continue at the bottom of the page. Thank you for your cooperation.

1. Your name: \_\_\_\_\_

2. Your age: \_\_\_\_\_

3. The city where you live: \_\_\_\_\_

4. Your place of birth: \_\_\_\_\_

5. Do you rent or own your own home? \_\_\_\_\_

6. Your marital status: (circle one)

single married separated divorced widowed live with partner

7. What is your occupation, and how long have you worked in it? (If you are retired, please describe your main occupation when you were working).

8. Who is (or was) your employer?

9. How long have you worked for this employer? \_\_\_\_\_

10. Please list the occupations of any adults with whom you live.

11. If you have children, please list their ages and sex and, if they are employed, please give their occupations.

1 12. Please describe your educational background:

2 Highest grade completed: \_\_\_\_\_

3 College and/or vocational schools you have attended:

4 \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

7 \_\_\_\_\_

8 Major areas of study: \_\_\_\_\_

9 13. Have you ever served on a jury before? \_\_\_\_\_ How many  
10 times? \_\_\_\_\_

11 If yes: State/County Court \_\_\_\_\_ Federal Court \_\_\_\_\_

12 When? \_\_\_\_\_

13 Was it a civil or criminal case? \_\_\_\_\_

14 Did the jury(ies) reach a verdict? \_\_\_\_\_

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